

STATE OF SOUTH CAROLINA
BEFORE THE PUBLIC SERVICE COMMISSION

Docket No. 2019-185-E
Docket No. 2019-186-E

July 29, 2021 (Amended)

South Carolina Energy Freedom)
Act (H.3659) Proceeding to)
Establish Duke Energy)
Standard Offer, Avoided Cost)
Methodologies, Form Contract)
Power Purchase Agreements,)
Commitment to Sell Forms,)
and Any Other Terms or)
Conditions Necessary)
(Includes Small Power Producers)
as Defined in 16 United States)
Code 796, as Amended) - S.C. Code)
Ann. Section 58-41-20(A))

**AMENDED PARTIAL SETTLEMENT
AGREEMENT**

South Carolina Energy Freedom)
Act (H.3659) Proceeding to)
Establish Duke Energy)
Progress, LLC's)
Methodologies, Form Contract)
Power Purchase Agreements,)
Commitment to Sell Forms,)
Carolinas, LLC's)
and Any Other Terms or)
Conditions Necessary)
(Includes Small Power Producers)
as Defined in 16 United States)
Code 796, as Amended) - S.C. Code)
Ann. Section 58-41-20(A))

This Amended Partial Settlement Agreement (“Settlement Agreement”) is made by and among the signatory parties (collectively known as “the Parties”).

WHEREAS, pursuant to S.C. Code Ann. § 58-41-20, the South Carolina Public Service Commission (“Commission”) is required to open a docket for the purpose of establishing each electrical utility's standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement this section; and is required to approve each electrical utility's standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement that statutory provision; and

WHEREAS, the Commission opened the above-referenced dockets for purposes of implementing these statutory provisions with respect to DEC and DEP; and

WHEREAS, the Parties to this Settlement each participated as Parties in the above-referenced dockets; and

WHEREAS, in the interest of compromise the Parties reached settlement of certain issues in the case that the parties believe is just, fair, and reasonable, and

WHEREAS, issues not agreed to herein remain in dispute;

AS SUCH, the Parties entered into this Partial Settlement as follows:

**A. STIPULATION OF SETTLEMENT AGREEMENT, TESTIMONY, AND WAIVER
OF CROSS-EXAMINATION**

Through the testimony and exhibits presented to the Commission in this proceeding, the Settling Parties represent that certain issues between them in this case have been settled in accordance with the terms and conditions contained in this Settlement Agreement, which is just, fair, reasonable and in the public interest. The terms of the Settlement Agreement are summarized as follows:

1. DEC and DEP's quantification of the near-term projected capacity represented by "Existing plus Transition" solar QFs to be installed on the DEC and DEP systems, 840 MW and 2,950 MW, respectively, is reasonable for use in this proceeding.

2. That solar integration services charges (SISC) of \$1.10/MWh (DEC) and \$2.39/MWh (DEP) are reasonable, for purposes of this proceeding, for solar small power producers that enter into a PPA or establish a Legally Enforceable Obligation prior to the date DEC and DEP file an updated SISC with the Commission. These charges shall not be subject to adjustment during the term of the PPA. The SISC in the foregoing amounts should apply prospectively only to projects subject to the avoided cost methodologies and contractual terms and conditions established in Commission Docket Nos. 2019-185-E, 2019-186-E, 2021-89-E, and 2021-90-E, and shall not apply to the rates established in prior avoided cost proceedings. For the avoidance of doubt, once DEC and DEP complete the independent review provided for in paragraph 4 and file an updated SISC with the Commission, that updated SISC will then be applicable to solar QFs that enter into a PPA or establish a Legally Enforceable Obligation after the date of filing of that updated SISC, subject to review and approval by the Commission.

3. Duke cannot impose the SISC on a solar QF that is a "controlled solar generator," meaning, generally, any solar QF that demonstrates that its facility is capable of operating, and contractually agrees to operate, in a manner that materially reduces or eliminates the need for additional ancillary service requirements incurred by the utility, including but not limited to QFs equipped with battery storage. Duke must file with the Commission (by Nov. 18), for review and comment, proposed guidelines for QFs to become "controlled solar generators" and thereby avoid the SISC.

4. The Astrapé Study used to calculate the SISC presents novel and complex issues that warrant further consideration. Duke shall submit the study methodology and inputs to an independent technical review and include the results of that review and any proposed revisions to the SISC in a future filing no earlier than February 1, 2022; and no later than August 1, 2022. To the maximum extent practicable the independent review of the study methodology shall take into consideration the South Carolina Integration Study called for by S.C. Code Ann. § 58-37-60. This process shall be subject to Commission oversight and comment from interested stakeholders. The parties agree that the work associated with the independent technical review is reasonable and appropriate to effectuate Act 62 compliance.

5. Within 15 days of the Commission's final Order approving the SISC, unless otherwise directed by the Commission, and as agreed to in this Stipulation, Duke shall file revised Standard Offer and Large QF purchase power agreements and terms and conditions, in redline and clean versions, that comply with the contract terms and conditions specified in this Stipulation.

6. To the extent the Companies propose to impose the SISC for any other programs or contexts in South Carolina, the Commission will separately consider the appropriateness and applicability of the SISC in the proceedings to consider and review those programs.

7. The parties agree to waive cross-examination of the following witnesses. With respect to only those issues specifically addressed herein, the Parties agree that no other evidence will be offered in the proceeding by the Parties other than the Testimony of the following witnesses and exhibits and this Settlement Agreement, unless the additional evidence is to support this Settlement Agreement. The Parties also reserve the right to engage in cross or redirect examination of witnesses as necessary to respond to issues raised by the examination of their witnesses, if any,

by non-Parties or by late-filed testimony by non-Parties. Notwithstanding any of the foregoing, the Parties may make any witness available for questioning on any issue by the Commission.

Duke witnesses:

1. Nick Wintermantel
2. Samuel Holeman

CCL / SACE witness:

1. Brendan Kirby

SBA witness:

1. Ed Burgess (only as to issues addressed in this Settlement Agreement)

ORS witness:

1. Brian Horii (only as to issues addressed in this Settlement Agreement)

B. REMAINING TERMS AND CONDITIONS

1. The Parties agree that this Settlement Agreement is reasonable, in the public interest and in accordance with law and regulatory policy.

2. Further, ORS is charged with the duty to represent the public interest of South Carolina pursuant to S.C. Code Ann. § 58-4-10(B). The Parties agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable and full resolution of the issues specifically referenced herein, and to take no action inconsistent with its adoption by the Commission.

3. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission in its entirety.

4. This Settlement Agreement is binding on the Parties only, and only as to the issues specifically addressed herein. It creates no rights in third parties nor are there third party beneficiaries to it; nor does it bind any Party with respect to any issue in this docket not specifically referenced herein. Only Parties who are signatories may make any claim under this Settlement Agreement.

5. The Parties agree that signing this Settlement Agreement (a) will not constrain, inhibit, impair, waive, or prejudice their arguments or positions held in future or collateral proceedings; (b) will not constitute a precedent or evidence of acceptable practice in future proceedings; and (c) will not limit the relief, rates, recovery or rates of return that any Party may seek or advocate in any future proceeding.

6. If the Commission declines to approve this Settlement Agreement in its entirety, then any Party may withdraw from the Settlement Agreement without penalty or obligation within three (3) days of receiving notice of the decision, by providing written notice of withdrawal via electronic mail to all parties in that time period.

7. This Settlement Agreement shall be effective upon execution by the Parties and shall be interpreted according to South Carolina law.

8. This Settlement Agreement contains the complete agreement of the Parties. This Settlement Agreement shall bind and inure to the benefit of each of the signatories hereto and their representatives, predecessors, successors, assigns, agents, shareholders, officers, directors (in their individual and representative capacities), subsidiaries, affiliates, parent corporations, if any, joint ventures, heirs, executors, administrators, trustees, and attorneys.

9. The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement, by

affixing its signature or by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any Party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.

[SIGNATURES TO FOLLOW ON SEPARATE PAGES]

Representing the Carolinas Clean Energy Business Association:



Benjamin L. Snowden
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Representing Duke Energy Carolinas, LLC and
Duke Energy Progress, LLC:

Heather Shirley Smith

Heather Shirley Smith
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Representing South Carolina Coastal Conservation League and
Southern Alliance for Clean Energy:



Lauren J. Bowen
Southern Environmental Law Center
601 West Rosemary Street, Suite 220
Chapel Hill, NC 27516

Representing Johnson Development Associates, Inc.:

A handwritten signature in blue ink that reads "Weston Adams, III". The signature is written in a cursive style with a horizontal line underneath the name.

Weston Adams, III, Esquire
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